

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

ALLEN F. CALTON, #1123880

§

VS.

§

CIVIL ACTION NO. 6:14cv407

DR. GARY WRIGHT, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Allen F. Calton, an inmate confined at the Michael Unit of the Texas prison system, proceeding *pro se* and seeking to proceed *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was directly assigned to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the lawsuit should be dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). Calton has filed objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by Calton, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections raised by Calton are without merit. It is specifically noted that Calton has a history of abuse of court. He has accumulated more than “three strikes” for purposes of § 1915(g). The facts as alleged in the present lawsuit do not give rise to an inference that he was under imminent danger of serious physical injury at the time he filed the lawsuit and his application to proceed *in forma pauperis*; thus, the lawsuit should be dismissed with prejudice for purposes of *in forma pauperis* proceedings. Calton’s objections and arguments to

the contrary lack merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #6) is **ADOPTED**. It is further

ORDERED that the civil rights complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

ORDERED that Calton's motion to proceed *in forma pauperis* (docket entry #3) is **DENIED**. It is further

ORDERED that Calton may resume the lawsuit if he pays the entire filing fee of \$400 within thirty days after the entry of the final judgment. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 3rd day of June, 2014.

A handwritten signature in black ink, reading "Michael H. Schneider", written over a horizontal line.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE